UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,091	04/20/2004	John C. Eidson	10040199-1	6015

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EXAMINER
JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
2457	

NOTIFICATION DATE	DELIVERY MODE
08/27/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

	Application No.	Applicant(s)
	10/829,091	EIDSON ET AL.
Office Action Summary	Examiner	Art Unit	
	LASHONDA T. JACOBS	2457	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 July 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-8,10-16,18-22 and 24-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-8, 10-16, 18-22 and 24-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

The Final Office Action that was mailed on May 26, 2009 has been withdrawn since the scope of the claims has not been change. This is a proper Final Office Action in response to the Applicant amendment filed on July 27, 2009. Claims 1-8, 10-16, 18-22 and 24-27 are presented for further examination.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims **1-8, 10-16, 18-22** and **24-27** are rejected under 35 U.S.C. 102(b) as being anticipated by McDonnell et al (hereinafter, "McDonnell", U.S. Pub. No. 2001/0028313).

As per claim **10**, McDonnell discloses a method for configuring a set of distributed devices comprising:

- providing to one or more of the distributed devices, via communication subsystems of the one or more distributed devices, a set of configuration data that configures the one or more distributed devices for performing measurement/control function (paragraphs 0057-0058 and 0062); and

- diffusing the provided configuration data among the distributed devices (paragraphs 0057-0058, 0062 and 0068).

As per claim **18**, McDonnell discloses a first device, comprising:

- a measurement/control subsystem (paragraphs 0057-0058);

- means for obtaining from a remotely-located configuration data source a set of
  configuration data that configures a second device, spaced apart from the first device,
  for performing a measurement/control function (paragraphs 0057-0058 and 0062); and

- means for diffusing the configuration data from the first device to the second device
  (paragraphs 0057-0058 and 0062).

As per claim **24**, McDonnell discloses a measurement/control system, comprising:

- a configuration data source that provides a set of configuration data that specifies a
  measurement/control function (paragraphs 0059 and 0062); and

- a set of distributed devices each having means for obtaining the configuration data from
  the configuration data source and means for diffusing the configuration data among the
  distributed devices (paragraphs 0057-0058 and 0062).

As per claim **1**, McDonnell discloses:

- wherein the means for diffusing includes means for determining a relative staleness of a
  set of configuration data stored in the distributed devices (paragraphs 0079 and 0081).

As per claim **2**, McDonnell discloses:

- wherein the configuration data source includes a source kiosk that obtains the
  configuration data from an application server (paragraphs 0057-0058).

As per claim **3**, McDonnell discloses:

- wherein the configuration data source is co-located with a service provider accessible by
  one or more of the distributed devices (paragraphs 0057-0058).

As per claim **4**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel with a kiosk (paragraphs 0057-0058).

As per claim **5**, McDonnell discloses:

- wherein the means for forming a communication channel includes means for forming a communication channel in response to a physical proximity to the kiosk (paragraphs 0068-0071).

As per claim **6**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel with another of the distributed devices (paragraphs 0068-0071).

As per claim **7**, McDonnell discloses:

- wherein the means for forming a communication channel includes means for forming a communication channel in response to a physical proximity (paragraphs 0064-0066).

As per claim **8**, McDonnell discloses:

- wherein the means for diffusing includes means for determining a relative staleness of a set of configuration data stored in a kiosk and a set of configuration data stored in the distributed devices (paragraphs 0079 and 0081).

As per claim **11**, McDonnell discloses:

- wherein the step of providing includes the step of obtaining the configuration data from an application server (paragraph 0058) .

As per claim **12**, McDonnell discloses:

- wherein the step of providing includes the step of co-locating the configuration data with a service provider accessible by one or more of the distributed devices (paragraphs 0057-0058).

As per claim **13**, McDonnell discloses:

- wherein the step of diffusing includes the step of forming a communication channel between a pair of the distributed devices and communicating the configuration data from one of the pair of distributed devices to the other of the pair of distributed devices (paragraphs 0068-0071).

As per claim **14**, McDonnell discloses:

- wherein the step of forming a communication channel includes the step of forming a communication channel in response to a physical proximity of the pair of distributed devices to each other (paragraphs 0068-0071).

As per claim **15**, McDonnell discloses wherein the step of diffusing includes:

- forming a first communication channel between a first one of the distributed and a kiosk (paragraphs 0064-0066);

- communication the configuration data from the first distributed device and the kiosk via the first communication channel (paragraphs 0064-0066);

- forming a second communication channel between a second one of the distributed devices and the kiosk (paragraphs 0064-0066); and

- communicating the configuration data from the kiosk to the second distributed devices (paragraphs 0064-0066).

As per claim **16**, McDonnell discloses:

- wherein the step of forming the first communication channel includes the step of forming the first communication channel with the kiosk in response to a physical proximity to a physical proximity of the kiosk (paragraphs 0068-0071).

As per claim **19**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel to the second distributed device (paragraphs 0064-0066).

As per claim **20**, McDonnell discloses:

- wherein the means for forming a communication channel includes means for forming a communication channel in response to a physical proximity between the first device and the one or more other distributed devices (paragraphs 0068-0071).

As per claim **21**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel between the first device and a kiosk (paragraphs 0064-0066).

As per claim **25**, McDonnell discloses:

- wherein the step of diffusing includes the step of determining a relative staleness of different sets of configuration data (paragraphs 0079 and 0081).
- As per claim **26**, McDonnell discloses:
- wherein the means of diffusing includes means for determining a staleness of the configuration data (paragraphs 0079 and 0081).
- As per claim **27**, McDonnell discloses:
- where the first device is a portable wireless device, and wherein the second device is a portable wireless device (paragraph 0058).

Response to Arguments

3.   Applicant's arguments filed July 27, 2009 have been fully considered but they are not

persuasive.

The Office notes the following arguments:

a. McDonnell does not disclose that a mobile entity 20 diffuses configuration to any other mobile

entity 20.

b. McDonnell does not disclose any means for determining a relative staleness of a set of

configuration data stored in a distributed device.

c. McDonnell does not disclose means for diffusing includes means for forming a

communication channel with another of the distributed devices.

d. McDonnell does not disclose in each distributed device the means for diffusing includes

means for determining a relative staleness of a set of configuration data stored in a kiosk and a

set of configuration data stored in the distributed devices.

e. McDonnell does not disclose providing to one or more distributed devices a set of

configuration data that configures the one or more distributed devices for performing a

measurement/control function and diffusing the provided configuration data among the

distributed devices.

f. McDonnell does not disclose means for obtaining from a remotely-located configuration data

source a set of configuration data that configures a second device spaced apart from the first

device, for performing a measurement/control function; and means for diffusing the

configuration data from the first device to the second device.

In response to:

(a), (e) and (f) Applicant argues that McDonnell does not disclose that mobile entity 20 diffuses configuration to any other mobile entity 20. However, the Examiner disagrees. McDonnell disclose that entity 20B is formed of two mobile devices a cell phone 70 and measurement unit 71. The measurement unit 71 collects configuration information such as telemetry. The measurement unit 71 is then connected to cell 70 and the configuration information is transferred to cell (paragraphs 0064-0067 and 0070). Therefore, McDonnell does teach diffusing configuration to another mobile entity 20.

(b) and (d), Applicant argues that McDonnell does not disclose any means for determining a relative staleness of a set of configuration data stored in a distributed device. However, the Examiner disagrees. McDonnell discloses in paragraph 0079 where the system determines a timestamp and location information of the information. The system tries to verify that the reading has the correct timestamp and the reading was not sent at a later time after the reading was taken which is determining if the reading is stale or not. This information is stored in a database and also in the mobile entity. Therefore, McDonnell disclose means for determining a relative staleness of a set of configuration data stored in a distributed device and kiosk.

(c) Applicant argues that McDonnell does not disclose means for diffusing includes means for forming a communication channel with another of the distributed devices. However, the Examiner disagrees. McDonnell disclose that entity 20B is formed of two mobile devices a cell phone 70 and measurement unit 71. The measurement unit 71 collects configuration information such as telemetry. The measurement unit 71 is then connected to cell 70 and the configuration information is transferred to cell (paragraphs 0064-0067 and 0070). Since the configuration

information is being transferred to the cell from the measurement, then a communication channel

is formed between the two devices. Therefore, McDonnell does teach means for diffusing

includes means for forming a communication channel with another of the distributed devices.

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to LASHONDA T. JACOBS whose telephone number is (571)272-

4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaShonda T Jacobs/
Examiner, Art Unit 2457

ltj
August 24, 2009